

CHAPTER 260D
CHILD IN VOLUNTARY FOSTER CARE FOR TREATMENT

260D.01	CHILD IN VOLUNTARY FOSTER CARE FOR TREATMENT.	260D.07	REQUIRED PERMANENCY REVIEW HEARING.
260D.02	DEFINITIONS.	260D.08	ANNUAL REVIEW.
260D.03	VOLUNTARY FOSTER CARE.	260D.09	PERMANENCY REVIEW AFTER ADJUDICATION UNDER CHAPTER 260C.
260D.04	REQUIRED INFORMATION FOR A CHILD IN VOLUNTARY FOSTER CARE FOR TREATMENT.	260D.10	TERMINATION OF VOLUNTARY PLACEMENT AGREEMENT.
260D.05	ADMINISTRATIVE REVIEW OF CHILD IN VOLUNTARY FOSTER CARE FOR TREATMENT.	260D.11	DISPOSITIONS; VOLUNTARY FOSTER CARE FOR TREATMENT.
260D.06	AGENCY REPORT TO COURT AND COURT REVIEW OF CHILD IN VOLUNTARY FOSTER CARE FOR TREATMENT DUE TO DISABILITY.		

260D.01 CHILD IN VOLUNTARY FOSTER CARE FOR TREATMENT.

(a) Sections 260D.01 to 260D.10, may be cited as the "child in voluntary foster care for treatment" provisions of the Juvenile Court Act.

(b) The juvenile court has original and exclusive jurisdiction over a child in voluntary foster care for treatment upon the filing of a report or petition required under this chapter. All obligations of the agency to a child and family in foster care contained in chapter 260C not inconsistent with this chapter are also obligations of the agency with regard to a child in foster care for treatment under this chapter.

(c) This chapter shall be construed consistently with the mission of the children's mental health service system as set out in section 245.487, subdivision 3, and the duties of an agency under sections 256B.092 and 260C.157 and Minnesota Rules, parts 9525.0004 to 9525.0016, to meet the needs of a child with a developmental disability or related condition. This chapter:

(1) establishes voluntary foster care through a voluntary foster care agreement as the means for an agency and a parent to provide needed treatment when the child must be in foster care to receive necessary treatment for an emotional disturbance or developmental disability or related condition;

(2) establishes court review requirements for a child in voluntary foster care for treatment due to emotional disturbance or developmental disability or a related condition;

(3) establishes the ongoing responsibility of the parent as legal custodian to visit the child, to plan together with the agency for the child's treatment needs, to be available and accessible to the agency to make treatment decisions, and to obtain necessary medical, dental, and other care for the child; and

(4) applies to voluntary foster care when the child's parent and the agency agree that the child's treatment needs require foster care either:

(i) due to a level of care determination by the agency's screening team informed by the diagnostic and functional assessment under section 245.4885; or

(ii) due to a determination regarding the level of services needed by the responsible social services' screening team under section 256B.092, and Minnesota Rules, parts 9525.0004 to 9525.0016.

(d) This chapter does not apply when there is a current determination under section 626.556 that the child requires child protective services or when the child is in foster care for any reason other than treatment for the child's emotional disturbance or developmental disability or related condition. When there is a determination under section 626.556 that the child requires child protective services based on an assessment that there are safety and risk issues for the child that have not been mitigated through the parent's engagement in services or otherwise, or when the child is in foster care for any reason other than the child's emotional disturbance or developmental disability or related condition, the provisions of chapter 260C apply.

(e) The paramount consideration in all proceedings concerning a child in voluntary foster care for treatment is the safety, health, and the best interests of the child. The purpose of this chapter is:

(1) to ensure a child with a disability is provided the services necessary to treat or ameliorate the symptoms of the child's disability;

(2) to preserve and strengthen the child's family ties whenever possible and in the child's best interests, approving the child's placement away from the child's parents only when the child's need for care or treatment requires it and the child cannot be maintained in the home of the parent; and

(3) to ensure the child's parent retains legal custody of the child and associated decision-making authority unless the child's parent willfully fails or is unable to make decisions that meet the child's safety, health, and best interests. The court may not find that the parent willfully fails or is unable to make decisions that meet the child's needs solely because the parent disagrees with the agency's choice of foster care facility, unless the agency files a petition under chapter 260C, and establishes by clear and convincing evidence that the child is in need of protection or services.

(f) The legal parent-child relationship shall be supported under this chapter by maintaining the parent's legal authority and responsibility for ongoing planning for the child and by the agency's assisting the parent, where necessary, to exercise the parent's ongoing right and obligation to visit or to have reasonable contact with the child. Ongoing planning means:

(1) actively participating in the planning and provision of educational services, medical, and dental care for the child;

(2) actively planning and participating with the agency and the foster care facility for the child's treatment needs; and

(3) planning to meet the child's need for safety, stability, and permanency, and the child's need to stay connected to the child's family and community.

(g) The provisions of section 260.012 to ensure placement prevention, family reunification, and all active and reasonable effort requirements of that section apply. This chapter shall be construed consistently with the requirements of the Indian Child Welfare Act of 1978, United States Code, title 25, section 1901, et al., and the provisions of the Minnesota Indian Family Preservation Act, sections 260.751 to 260.835.

History: 2008 c 361 art 6 s 44; 2011 c 86 s 22

260D.02 DEFINITIONS.

Subdivision 1. **Definitions.** The definitions in this section supplement the definitions in section 260C.007. The definitions in section 260C.007 apply to this chapter and have the same meaning for purposes of this chapter as for chapter 260C.

Subd. 2. **Agency.** "Agency" means the responsible social services agency or a licensed child-placing agency.

Subd. 3. **Case plan.** "Case plan" means any plan for the delivery of services to a child and parent, or when reunification is not required, the child alone, that is developed according to the requirements of sections 245.4871, subdivision 19 or 21; 245.492, subdivision 16; 256B.092; 260C.212, subdivision 1; 626.556, subdivision 10; and Minnesota Rules, parts 9525.0004 to 9525.0016.

Subd. 4. **Child.** "Child" means an individual under 18 years of age.

Subd. 5. **Child in voluntary foster care for treatment.** "Child in voluntary foster care for treatment" means a child who is emotionally disturbed or developmentally disabled or has a related condition and is in foster care under a voluntary foster care agreement between the child's parent and the agency due to concurrence between the agency and the parent when it is determined that foster care is medically necessary:

(1) due to a determination by the agency's screening team based on its review of the diagnostic and functional assessment under section 245.4885; or

(2) due to a determination by the agency's screening team under section 256B.092 and Minnesota Rules, parts 9525.0004 to 9525.0016.

A child is not in voluntary foster care for treatment under this chapter when there is a current determination under section 626.556 that the child requires child protective services or when the child is in foster care for any reason other than the child's emotional or developmental disability or related condition.

Subd. 6. **Compelling reasons.** "Compelling reasons" has the same meaning given in section 260C.007, subdivision 8. The agency may determine compelling reasons when the child is in foster care for treatment and no grounds to terminate parental rights exist because the child must be in placement to access treatment, the child's individual treatment needs cannot be met in the child's home or through community-based care, and the parent continues to be responsible for planning together with the agency for the child's needs and maintains appropriate contact with the child.

Subd. 7. **Court.** "Court" means juvenile court unless otherwise specified in this section.

Subd. 8. **Developmental disability.** "Developmental disability" means developmental disability as defined in United States Code, title 42, section 6001(8).

Subd. 9. **Emotionally disturbed or emotional disturbance.** "Emotionally disturbed" or "emotional disturbance" means emotional disturbance as described in section 245.4871, subdivision 15.

Subd. 10. **Foster care.** "Foster care" means 24-hour substitute care for children placed away from their parents and for whom an agency has placement and care responsibility. Foster care includes, but is not limited to, placement in foster family homes, foster homes of relatives, group homes, emergency shelters, residential facilities not excluded in this subdivision, child care institutions, and preadoptive homes. A child is in foster care under this definition, regardless of whether the facility is licensed and payments are made for the cost of care. Nothing in this definition creates any authority to place a child in a home or facility that is required to be licensed that is not licensed. Foster care does not include placement in any of the following facilities: hospitals, inpatient chemical dependency treatment facilities, facilities that are primarily for delinquent children, any corrections facility or program within a particular corrections facility not

meeting requirements for Title IV-E facilities as determined by the commissioner, facilities to which a child is committed under the provision of chapter 253B, forestry camps, or jails.

Subd. 11. **Legal authority to place the child.** "Legal authority to place the child" means the agency has legal responsibility for the care and control of the child while the child is in foster care. The agency may acquire legal authority to place a child through a voluntary placement agreement between the agency and the child's parent under this chapter. Legal authority to place the child does not mean the agency has authority to make major life decisions regarding the child, including major medical decisions. A parent with legal custody of the child continues to have legal authority to make major life decisions regarding the child, including major medical decisions.

Subd. 12. **Minor.** "Minor" means an individual under 18 years of age.

Subd. 13. **Parent.** "Parent" means the birth or adoptive parent of a minor. Parent also means the child's legal guardian or any individual who has legal authority to make decisions and plans for the child. For an Indian child, parent includes any Indian person who has adopted a child by tribal law or custom, as provided in section 260.755, subdivision 14.

Subd. 14. **Reasonable efforts to finalize a permanent plan for the child.** "Reasonable efforts to finalize a permanent plan for the child" has the same meaning under this chapter as provided in section 260.012, paragraph (e).

History: 2008 c 361 art 6 s 45; 2009 c 163 art 2 s 36

260D.03 VOLUNTARY FOSTER CARE.

Subdivision 1. **Voluntary foster care.** When the agency's screening team, based upon the diagnostic and functional assessment under section 245.4885 or medical necessity screenings under section 256B.092, subdivision 7, determines the child's need for treatment due to emotional disturbance or developmental disability or related condition requires foster care placement of the child, a voluntary foster care agreement between the child's parent and the agency gives the agency legal authority to place the child in foster care.

Subd. 2. **Voluntary foster care agreement.** A voluntary foster care agreement shall be used to provide the agency the legal authority to place a child in foster care for treatment due to the child's disability. The agreement must be in writing and signed by both the child's parent and the agency. The agreement must be in a form approved by the commissioner of human services, and shall contain notice to parents of the consequences to the parent and to the child of being in voluntary foster care.

History: 2008 c 361 art 6 s 46; 2009 c 163 art 2 s 37

260D.04 REQUIRED INFORMATION FOR A CHILD IN VOLUNTARY FOSTER CARE FOR TREATMENT.

An agency with authority to place a child in voluntary foster care for treatment due to emotional disturbance or developmental disability or related condition, shall inform the child, age 12 or older, of the following:

(1) the child has the right to be consulted in the preparation of the out-of-home placement plan required under section 260C.212, subdivision 1, and the administrative review required under section 260C.203;

(2) the child has the right to visit the parent and the right to visit the child's siblings as determined safe and appropriate by the parent and the agency;

(3) if the child disagrees with the foster care facility or services provided under the out-of-home placement plan required under section 260C.212, subdivision 1, the agency shall include information about the nature of the child's disagreement and, to the extent possible, the agency's understanding of the basis of the child's disagreement in the information provided to the court in the report required under section 260D.06; and

(4) the child has the rights established under Minnesota Rules, part 2960.0050, as a resident of a facility licensed by the state.

History: 2008 c 361 art 6 s 47; 2012 c 216 art 6 s 13

260D.05 ADMINISTRATIVE REVIEW OF CHILD IN VOLUNTARY FOSTER CARE FOR TREATMENT.

The administrative reviews required under section 260C.203 must be conducted for a child in voluntary foster care for treatment, except that the initial administrative review must take place prior to the submission of the report to the court required under section 260D.06, subdivision 2.

History: 2008 c 361 art 6 s 48; 2012 c 216 art 6 s 13

260D.06 AGENCY REPORT TO COURT AND COURT REVIEW OF CHILD IN VOLUNTARY FOSTER CARE FOR TREATMENT DUE TO DISABILITY.

Subdivision 1. **Judicial review.** In the case of a child in voluntary foster care for treatment due to disability under section 260D.03, the agency shall obtain judicial review of the child's voluntary foster care placement within 165 days of the placement.

Subd. 2. **Agency report to court; court review.** The agency shall obtain judicial review by reporting to the court according to the following procedures:

(a) A written report shall be forwarded to the court within 165 days of the date of the voluntary placement agreement. The written report shall contain or have attached:

- (1) a statement of facts that necessitate the child's foster care placement;
- (2) the child's name, date of birth, race, gender, and current address;
- (3) the names, race, date of birth, residence, and post office addresses of the child's parents or legal custodian;
- (4) a statement regarding the child's eligibility for membership or enrollment in an Indian tribe and the agency's compliance with applicable provisions of sections 260.751 to 260.835;
- (5) the names and addresses of the foster parents or chief administrator of the facility in which the child is placed, if the child is not in a family foster home or group home;
- (6) a copy of the out-of-home placement plan required under section 260C.212, subdivision 1;
- (7) a written summary of the proceedings of any administrative review required under section 260C.203; and

(8) any other information the agency, parent or legal custodian, the child or the foster parent, or other residential facility wants the court to consider.

(b) In the case of a child in placement due to emotional disturbance, the written report shall include as an attachment, the child's individual treatment plan developed by the child's treatment professional, as provided in section 245.4871, subdivision 21, or the child's individual interagency intervention plan, as provided in section 125A.023, subdivision 3, paragraph (c).

(c) In the case of a child in placement due to developmental disability or a related condition, the written report shall include as an attachment, the child's individual service plan, as provided in section 256B.092, subdivision 1b; the child's individual program plan, as provided in Minnesota Rules, part 9525.0004, subpart 11; the child's waiver care plan; or the child's individual interagency intervention plan, as provided in section 125A.023, subdivision 3, paragraph (c).

(d) The agency must inform the child, age 12 or older, the child's parent, and the foster parent or foster care facility of the reporting and court review requirements of this section and of their right to submit information to the court:

(1) if the child or the child's parent or the foster care provider wants to send information to the court, the agency shall advise those persons of the reporting date and the date by which the agency must receive the information they want forwarded to the court so the agency is timely able submit it with the agency's report required under this subdivision;

(2) the agency must also inform the child, age 12 or older, the child's parent, and the foster care facility that they have the right to be heard in person by the court and how to exercise that right;

(3) the agency must also inform the child, age 12 or older, the child's parent, and the foster care provider that an in-court hearing will be held if requested by the child, the parent, or the foster care provider; and

(4) if, at the time required for the report under this section, a child, age 12 or older, disagrees about the foster care facility or services provided under the out-of-home placement plan required under section 260C.212, subdivision 1, the agency shall include information regarding the child's disagreement, and to the extent possible, the basis for the child's disagreement in the report required under this section.

(e) After receiving the required report, the court has jurisdiction to make the following determinations and must do so within ten days of receiving the forwarded report, whether a hearing is requested:

(1) whether the voluntary foster care arrangement is in the child's best interests;

(2) whether the parent and agency are appropriately planning for the child; and

(3) in the case of a child age 12 or older, who disagrees with the foster care facility or services provided under the out-of-home placement plan, whether it is appropriate to appoint counsel and a guardian ad litem for the child using standards and procedures under section 260C.163.

(f) Unless requested by a parent, representative of the foster care facility, or the child, no in-court hearing is required in order for the court to make findings and issue an order as required in paragraph (e).

(g) If the court finds the voluntary foster care arrangement is in the child's best interests and that the agency and parent are appropriately planning for the child, the court shall issue an order containing explicit, individualized findings to support its determination. The individualized findings shall be based on the agency's written report and other materials submitted to the court. The court may make this determination notwithstanding the child's disagreement, if any, reported under paragraph (d).

(h) The court shall send a copy of the order to the county attorney, the agency, parent, child, age 12 or older, and the foster parent or foster care facility.

(i) The court shall also send the parent, the child, age 12 or older, the foster parent, or representative of the foster care facility notice of the permanency review hearing required under section 260D.07, paragraph (e).

(j) If the court finds continuing the voluntary foster care arrangement is not in the child's best interests or that the agency or the parent are not appropriately planning for the child, the court shall notify the agency, the parent, the foster parent or foster care facility, the child, age 12 or older, and the county attorney of the court's determinations and the basis for the court's determinations. In this case, the court shall set the matter for hearing and appoint a guardian ad litem for the child under section 260C.163, subdivision 5.

History: 2008 c 361 art 6 s 49; 2012 c 216 art 6 s 13

260D.07 REQUIRED PERMANENCY REVIEW HEARING.

(a) When the court has found that the voluntary arrangement is in the child's best interests and that the agency and parent are appropriately planning for the child pursuant to the report submitted under section 260D.06, and the child continues in voluntary foster care as defined in section 260D.02, subdivision 10, for 13 months from the date of the voluntary foster care agreement, or has been in placement for 15 of the last 22 months, the agency must:

- (1) terminate the voluntary foster care agreement and return the child home; or
- (2) determine whether there are compelling reasons to continue the voluntary foster care arrangement and, if the agency determines there are compelling reasons, seek judicial approval of its determination; or
- (3) file a petition for the termination of parental rights.

(b) When the agency is asking for the court's approval of its determination that there are compelling reasons to continue the child in the voluntary foster care arrangement, the agency shall file a "Petition for Permanency Review Regarding a Child in Voluntary Foster Care for Treatment" and ask the court to proceed under this section.

(c) The "Petition for Permanency Review Regarding a Child in Voluntary Foster Care for Treatment" shall be drafted or approved by the county attorney and be under oath. The petition shall include:

- (1) the date of the voluntary placement agreement;
- (2) whether the petition is due to the child's developmental disability or emotional disturbance;
- (3) the plan for the ongoing care of the child and the parent's participation in the plan;
- (4) a description of the parent's visitation and contact with the child;
- (5) the date of the court finding that the foster care placement was in the best interests of the child, if required under section 260D.06, or the date the agency filed the motion under section 260D.09, paragraph (b);
- (6) the agency's reasonable efforts to finalize the permanent plan for the child, including returning the child to the care of the child's family; and
- (7) a citation to this chapter as the basis for the petition.

(d) An updated copy of the out-of-home placement plan required under section 260C.212, subdivision 1, shall be filed with the petition.

(e) The court shall set the date for the permanency review hearing no later than 14 months after the child has been in placement or within 30 days of the petition filing date when the child has been in placement 15 of the last 22 months. The court shall serve the petition together with a notice of hearing by United States mail on the parent, the child age 12 or older, the child's guardian ad litem, if one has been appointed, the agency, the county attorney, and counsel for any party.

(f) The court shall conduct the permanency review hearing on the petition no later than 14 months after the date of the voluntary placement agreement, within 30 days of the filing of the petition when the child has been in placement 15 of the last 22 months, or within 15 days of a motion to terminate jurisdiction and to dismiss an order for foster care under chapter 260C, as provided in section 260D.09, paragraph (b).

(g) At the permanency review hearing, the court shall:

(1) inquire of the parent if the parent has reviewed the "Petition for Permanency Review Regarding a Child in Voluntary Foster Care for Treatment," whether the petition is accurate, and whether the parent agrees to the continued voluntary foster care arrangement as being in the child's best interests;

(2) inquire of the parent if the parent is satisfied with the agency's reasonable efforts to finalize the permanent plan for the child, including whether there are services available and accessible to the parent that might allow the child to safely be with the child's family;

(3) inquire of the parent if the parent consents to the court entering an order that:

(i) approves the responsible agency's reasonable efforts to finalize the permanent plan for the child, which includes ongoing future planning for the safety, health, and best interests of the child; and

(ii) approves the responsible agency's determination that there are compelling reasons why the continued voluntary foster care arrangement is in the child's best interests; and

(4) inquire of the child's guardian ad litem and any other party whether the guardian or the party agrees that:

(i) the court should approve the responsible agency's reasonable efforts to finalize the permanent plan for the child, which includes ongoing and future planning for the safety, health, and best interests of the child; and

(ii) the court should approve of the responsible agency's determination that there are compelling reasons why the continued voluntary foster care arrangement is in the child's best interests.

(h) At a permanency review hearing under this section, the court may take the following actions based on the contents of the sworn petition and the consent of the parent:

(1) approve the agency's compelling reasons that the voluntary foster care arrangement is in the best interests of the child; and

(2) find that the agency has made reasonable efforts to finalize the permanent plan for the child.

(i) A child, age 12 or older, may object to the agency's request that the court approve its compelling reasons for the continued voluntary arrangement and may be heard on the reasons for the objection. Notwithstanding the child's objection, the court may approve the agency's compelling reasons and the voluntary arrangement.

(j) If the court does not approve the voluntary arrangement after hearing from the child or the child's guardian ad litem, the court shall dismiss the petition. In this case, either:

(1) the child must be returned to the care of the parent; or

(2) the agency must file a petition under section 260C.141, asking for appropriate relief under sections 260C.301 or 260C.503 to 260C.521.

(k) When the court approves the agency's compelling reasons for the child to continue in voluntary foster care for treatment, and finds that the agency has made reasonable efforts to finalize a permanent plan for the child, the court shall approve the continued voluntary foster care arrangement, and continue the matter under the court's jurisdiction for the purposes of reviewing the child's placement every 12 months while the child is in foster care.

(l) A finding that the court approves the continued voluntary placement means the agency has continued legal authority to place the child while a voluntary placement agreement remains in effect. The parent or the agency may terminate a voluntary agreement as provided in section 260D.10. Termination of a voluntary foster care placement of an Indian child is governed by section 260.765, subdivision 4.

History: 2008 c 361 art 6 s 50; 2009 c 163 art 1 s 7; 2011 c 76 art 1 s 38; 2012 c 216 art 6 s 13

260D.08 ANNUAL REVIEW.

(a) After the court conducts a permanency review hearing under section 260D.07, the matter must be returned to the court for further review of the responsible social services reasonable efforts to finalize the permanent plan for the child and the child's foster care placement at least every 12 months while the child is in foster care. The court shall give notice to the parent and child, age 12 or older, and the foster parents of the continued review requirements under this section at the permanency review hearing.

(b) Every 12 months, the court shall determine whether the agency made reasonable efforts to finalize the permanency plan for the child, which means the exercise of due diligence by the agency to:

(1) ensure that the agreement for voluntary foster care is the most appropriate legal arrangement to meet the child's safety, health, and best interests and to conduct a genuine examination of whether there is another permanency disposition order under chapter 260C, including returning the child home, that would better serve the child's need for a stable and permanent home;

(2) engage and support the parent in continued involvement in planning and decision making for the needs of the child;

(3) strengthen the child's ties to the parent, relatives, and community;

(4) implement the out-of-home placement plan required under section 260C.212, subdivision 1, and ensure that the plan requires the provision of appropriate services to address the physical health, mental health, and educational needs of the child; and

(5) ensure appropriate planning for the child's safe, permanent, and independent living arrangement after the child's 18th birthday.

History: 2008 c 361 art 6 s 51; 2012 c 216 art 6 s 5

260D.09 PERMANENCY REVIEW AFTER ADJUDICATION UNDER CHAPTER 260C.

(a) If a child has been ordered into foster care under section 260C.178 or 260C.201, subdivision 1, and the conditions that led to the court's order have been corrected so that the child could safely return home except for the child's need to continue in foster care for treatment due to the child's disability, the child's parent and the agency may enter into a voluntary foster care agreement under this chapter using the procedure set out in paragraph (b).

(b) When the agency and the parent agree to enter into a voluntary foster care agreement under this chapter, the agency must file a motion to terminate jurisdiction under section 260C.193, subdivision 6, and to dismiss the order for foster care under section 260C.178 or 260C.201, subdivision 1, together with the petition required under section 260D.07, paragraph (b), for permanency review and the court's approval of the voluntary arrangement.

(c) The court shall send the motion and the petition filed under subdivision 2 together with a notice of hearing by mail as required in section 260D.07, paragraph (e).

(d) The petition and motion under this section must be filed no later than the time the agency is required to file a petition for permanent placement under section 260C.505 but may be filed as soon as the agency and the parent agree that the child should remain in foster care under a voluntary foster care agreement, because the child needs treatment and voluntary foster care is in the child's best interest.

(e) In order for the agency to have continuous legal authority to place the child, the parent and the agency must execute a voluntary foster care agreement for the child's continuation in foster care for treatment prior to the termination of the order for foster care under section 260C.178 or 260C.201, subdivision 1. The parent and agency may execute the voluntary foster care agreement at or before the permanency review hearing required under this section. The voluntary foster care agreement shall not be effective until the court terminates jurisdiction under section 260C.193, subdivision 6, and dismisses the order for foster care under section 260C.178 or 260C.201, subdivision 1. Unless the agency and the parent execute a voluntary placement agreement for the child to continue in voluntary foster care for treatment, the agency shall not have legal authority to place the child after the court terminates jurisdiction under chapter 260C.

History: 2008 c 361 art 6 s 52; 2012 c 216 art 6 s 13

260D.10 TERMINATION OF VOLUNTARY PLACEMENT AGREEMENT.

(a) The child's parent may terminate a voluntary placement agreement under this chapter upon written notice to the agency of the termination of the agreement. The termination of a voluntary foster care agreement regarding an Indian child shall be governed by section 260.765, subdivision 4.

(b) The agency may terminate a voluntary placement agreement under this section upon written notice of the termination of the agreement to the parent. Prior to sending notice of termination of the voluntary foster care placement agreement, the agency shall contact the parent regarding transition planning under paragraph (e). Written notice by the agency shall be considered received by the parent three business days after mailing by the agency.

(c) Upon receipt of notice of the termination of the voluntary foster care agreement, the agency, the parent, and the facility may agree to a time that the child shall return home. The scheduled time to return home shall meet the child's need for safety and reasonable transition. Unless otherwise agreed by the parent and the agency, the child's return home shall not occur

sooner than 72 hours and not later than 30 days after written notice of termination is received or sent by the agency.

(d) A parent who disagrees with the termination of a voluntary foster care agreement by the agency under this chapter has the right to a fair hearing under section 256.045 to appeal the termination of the voluntary foster care agreement. When the agency gives written notice to the parent of the termination of the agreement, the agency must also give the parent notice of the parent's right to a fair hearing under section 256.045 to appeal the agency's decision to terminate the voluntary foster care agreement.

(e) The agency and the child's parents shall engage in transition planning for the child's return home, including establishing a scheduled time for the child to return home, an increased visitation plan between the parent and child, and a plan for what services will be provided and in place upon the child's return home.

(f) Notice of termination of voluntary foster care agreement does not terminate the agreement. The voluntary foster care agreement and the agency's legal authority to place the child are terminated by the child's return home or by court order.

History: 2008 c 361 art 6 s 53

260D.11 DISPOSITIONS; VOLUNTARY FOSTER CARE FOR TREATMENT.

Upon a petition by a parent or guardian under section 260C.141, subdivision 1, regarding a child in voluntary foster care for treatment under this chapter, the court may find that the child's needs are not being met, in which case the court shall order the social services agency or the parents to take whatever action is necessary and feasible to meet the child's needs, including, when appropriate, the provision by the social services agency of services to the parents which would enable the child to live at home.

History: 1999 c 139 art 3 s 24; art 4 s 2; 1999 c 245 art 8 s 58; 2001 c 178 art 1 s 24; 2005 c 56 s 1; 2005 c 165 art 2 s 5; 2008 c 361 art 6 s 33; 2012 c 216 art 6 s 13